

program shall receive a direct payment for operation of its JOBS program, without the requirement for a non-Federal share, pursuant to § 250.93.

(1) The amount of any such direct payment will be deducted from the amount of the State's allotment, and will be proportional to the Tribe's or organization's proportion of the State's adult AFDC recipient population, as established pursuant to § 250.93.

(2) The remaining allocation to a State IV-A agency shall be subject to the regulations governing FFP at § 250.73.

(c) The following rules apply to Puerto Rico, Guam, the Virgin Islands and American Samoa which are subject to the provisions of section 1108 of the Act:

(1) The limitations on payments contained in section 1108 do not apply to a State's annual limit of entitlement for the JOBS program as described in § 250.70(b).

(2) The availability of FFP for child care under part 255 and the related appropriate FFP rates are described at § 255.4(b)(2) and § 255.4(g).

(3) The availability of FFP for transitional child care under part 256 and the related appropriate FFP rates are described at § 256.4(b).

§ 250.72 Maintenance of effort.

(a) Federal JOBS funds shall not be used to supplant non-Federal funds for services and activities that promote the purposes of the JOBS program.

(b) States must spend no less than the total of State and local expenditures incurred in fiscal year 1986 for training, employment and education programs which had a defined purpose of preventing welfare dependency or potential welfare dependency. This requirement includes State and local funds expended for title IV-A and title IV-C work programs, including expenditures on those programs which were unmatched, and other State and local funds expended for this purpose, with or without benefit of Federal matching funds. This requirement also applies to expenditures for supportive services, including child care, expended for this purpose. In determining that State and local fiscal year expenditures are no less than fiscal year 1986 expenditures,

States may use total aggregate expenditures.

(c) State IV-A agency contracts and arrangements may be made for services only to the extent that they are not otherwise available on a non-reimbursable basis. "Not otherwise available" here means that if the services are available to AFDC applicants and recipients by a provider, the provider must maintain that level of service before the State IV-A agency may contract for additional services of the same sort from that provider.

(d) Any State IV-A agency arrangement or contract must contain a certification from the provider that the services being contracted for are not otherwise available from that provider on a non-reimbursable basis. Services provided on a "non-reimbursable basis" are those services that a State makes available to most eligible residents or to the low income population, including AFDC applicants and recipients.

(e) A State IV-A agency directly providing JOBS component services must certify in the State JOBS plan that such services are not otherwise available on a non-reimbursable basis.

§ 250.73 Matching rates.

(a) From a State IV-A agency's total annual limit of entitlement, FFP is available at a rate of 90 percent for expenditures up to an amount equal to the State's WIN or WIN Demonstration allotment for fiscal year 1987. The State's match for this amount may be in cash or in kind fairly evaluated.

(b)(1) FFP will be available for the balance of a State IV-A agency's limit of entitlement as follows:

(i) At the higher of the State's Medicaid matching rate or 60 percent for: personnel costs (salaries and benefits) for full-time staff working full-time in any capacity in the JOBS program; and all direct costs associated with providing JOBS program services to individuals, including assessment, development of the employability plan, case management, and JOBS component activities.

(ii) At 50 percent for: indirect personnel costs which are excluded from JOBS matching at the FMAP rate (or 60%); non-personal services costs associated with these indirect personnel

costs, including space, travel, utilities, equipment, and supplies; the costs of such items as JOBS program planning, monitoring, letting contracts, systems, title IV-F fair hearing activities, and other indirect costs of providing JOBS services and activities; and for transportation, work-related expenses, and work-related supportive services as provided under the requirements of part 255.

(2) A State's match for these amounts must be in cash, not in kind.

(c) The costs of services and activities purchased under contract by the State or local IV-A agency must be segregated according to the requirements of the FMAP rate with a floor of 60 percent and the requirements for 50 percent matching.

(d) A State's share of JOBS expenditures may include public and private funds.

(1) Public funds may be considered as the State's share in claiming FFP when the funds are:

(i) Appropriated directly to the State or local agency, or transferred from another public agency (including Indian tribes) to the State or local agency and under its administrative control;

(ii) Not used to match other Federal funds; and

(iii) Not Federal funds, or are Federal funds authorized by Federal law to be used to match other Federal funds.

(2) Funds donated from private sources may be considered as the State's share in claiming FFP when the funds are:

(i) Transferred to the State or local agency and under its administrative control;

(ii) Donated without any restriction which would require their use for assisting a particular individual or at particular facilities or institutions;

(iii) Do not revert to the donor's facility or use.

(e) If included in a State's JOBS and Supportive Services plans, FFP is available for JOBS activities and services provided for certain periods to an individual who has been a JOBS participant but who loses eligibility for AFDC. These activities and periods are:

(1) Case management activities and supportive services for up to 90 days

from the date the individual loses eligibility for AFDC; and

(2) JOBS component activities for the duration of the activity if funds for the activity are obligated or expended before the individual loses eligibility for AFDC.

§ 250.74 Reduced matching rate.

(a)(1) FFP for a State IV-A agency shall be 50 percent (rather than the rates described in § 250.73) in any fiscal year in which that State spends less than 55 percent of the State's JOBS expenditures on applicants and recipients who are members of the State's target populations as defined in § 250.1.

(2) If any State IV-A agency demonstrates to the satisfaction of the Secretary that the characteristics of the caseload in that State make it infeasible to meet the requirements of paragraph (a)(1), and that the State is targeting an approved set of long-term or potential long-term recipients, the match rate in § 250.73 shall be applied.

(3) A State IV-A agency need not require or allow participation of an individual in the program if, as a result of such participation, the amount payable to the State for quarters in a fiscal year with respect to the program would be reduced pursuant to paragraph (a)(1).

(b)(1) FFP for a State IV-A agency shall be 50 percent (rather than the rates described in § 250.73) in any fiscal year for the State's JOBS expenditures if the State's participation rate (determined under paragraph (b)(2)) for the preceding fiscal year does not equal or exceed:

(i) 7 percent if the preceding fiscal year is 1990;

(ii) 7 percent if such year is 1991, however, no reduction in FFP shall be made in 1991 for any failure to meet the participation rate specified in (b)(1)(i);

(iii) 11 percent if such year is 1992;

(iv) 11 percent if such year is 1993;

(v) 15 percent if such year is 1994; and

(vi) 20 percent if such year is 1995.

(2) The State IV-A agency's participation rate for a fiscal year shall be the average of its participation rates for computation periods in such fiscal year. The computation periods shall be:

(i) The fiscal year, in the case of fiscal year 1990;